

RICHARD R. RHYNER

IBLA 82-131

Decided June 29, 1982

Appeal from a decision of the Montana State Office, Bureau of Land Management, rejecting appellant's oil and gas lease application M 50051 (ND) for parcel No. MT-178.

Reversed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:  
Applications: Attorneys-in-Fact or Agents -- Oil and Gas Leases:  
Applications: Filing

Under the provisions of 43 CFR 3102.2-6(b), where a uniform agreement is entered into between several applicants and an agent, a single copy of the agreement may be filed with the proper office in lieu of the showing required in paragraph (a) of this section, provided that a list setting forth the name and address of each such applicant participating under the agreement be filed with the proper Bureau of Land Management Office not later than 15 days from each filing of applications under 43 CFR Subpart 3112.

APPEARANCES: Bruce A. Spear, Esq., Rancho Santa Fe, California, for appellant.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Richard R. Rhyner appeals from a decision of the Montana State Office, Bureau of Land Management (BLM), rejecting his application for parcel No. MT-178, which was drawn with first priority in the simultaneous oil and gas drawing held in January 1981.

By decision dated October 7, 1981, BLM notified appellant that his application had been rejected "as required by \* \* \* 43 CFR 3112.6-1(b) for failure to submit your personally signed service agreement in accordance with [43 CFR] 3102.2-6(a) and 3102.2-1(c)." The decision further stated that any

applicant receiving the assistance of an agent shall submit with the application an originally executed copy of the service agreement. BLM acknowledged that regulation 43 CFR 3102.2-1(c) provides for referencing serial numbers of qualifications files in lieu of submitting the above information with each application. However, BLM held that the information must have previously been filed in the referenced file. The decision goes on to state that since the close of the filing period for the January drawing was January 22, 1981, and a copy of appellant's service agreement with California Resources Incorporated (CRI) was not received in the referenced qualifications file until January 26, 1981, appellant's application must be rejected.

On appeal, appellant reiterates his qualifications to hold Federal oil and gas leases in accordance with the regulations found at 43 CFR 3101.1-5, 3101.2-4, and 3102. Appellant further asserts that on December 17, 1980, he executed a service agreement between himself and CRI, a California corporation; and that in the service agreement, appellant agreed that CRI would perform certain services for him in connection with the Federal simultaneous noncompetitive oil and gas leasing program which included filing lease applications personally signed by appellant, CRI's client, with BLM. Appellant further asserts that on September 15, 1980, CRI filed with BLM certain documents including a service agreement which is identical in form to the service agreement executed by appellant on December 17, 1980, and filed with the Colorado State Office on January 26, 1981; that on September 30, 1980, BLM notified CRI by letter that the material submitted by CRI qualified for filing for reference purposes under 43 CFR 3102.2-1(c); and that BLM assigned serial No. C-30710 to the CRI materials. Finally, appellant states that he executed the application at issue and delivered it to CRI for transmittal to BLM pursuant to appellant's written service agreement with CRI; that CRI stamped the application with CRI's assigned reference No. C-30710, and mailed the application to the Montana State Office; and that in January 1981 the Montana State Office conducted its drawing for parcel MT-178 in which appellant's application obtained first priority.

[1] The regulation at 43 CFR 3102.2-6 provides:

(a) Any applicant receiving the assistance of any other person or entity which is in the business of providing assistance to participants in a Federal oil and gas leasing program shall submit with the lease offer, or the lease application if leasing is in accordance with Subpart 3112 of this title, a personally signed statement as to any understanding, or a personally signed copy of any written agreement or contract under which any service related to Federal oil and gas leasing or leases is authorized to be performed on behalf of such applicant. Such agreement or understanding might include, but is not limited to: A power of attorney; a service agreement setting forth duties and obligations; or a brokerage agreement.

(b) Where a uniform agreement is entered into between several offerors or applicants and an agent, a single copy of the agreement and the statement of understanding may be filed with the proper office in lieu of the showing required in paragraph (a) of this section. A list setting forth the name and address of

each such offeror or applicant participating under the agreement shall be filed with the proper Bureau of Land Management office not later than 15 days from each filing of offers, or applications if leasing is in accordance with Subpart 3112 of this title.

In effect, 43 CFR 3102.2-6(b) is an alternative to 43 CFR 3102.2-6(a), and compliance with subpart "b" obviates the need to comply with subpart "a". Alvyn G. Novotny, 55 IBLA (1981).

The regulation, 43 CFR 3102.2-1(c), provides a mechanism where one may, if one so desires, place on file evidence of agency qualifications and thus in future filings merely make reference to the serial number assigned to the statement, rather than file a copy of the agreement and a list of the participants every time a filing is made. Thus, filing under 43 CFR 3102.2-1(c) and insertion of the assigned serial number on the application constitutes another independent method of complying with the disclosure requirement. Robert R. Amdahl, 62 IBLA 246 (1982); Alvyn G. Novotny, *supra*.

Although neither 43 CFR 3102.2-6 nor 43 CFR 3102.2-1(c) provide for the submission of qualification statements after the filing period, 43 CFR 3102.2-6(b) allows 15 days for required data to be filed with the proper BLM office. Appellant's application was dated January 14, 1981. The close of the filing period was January 22, 1981. The required disclosure and a copy of the signed service agreement between appellant and CRI were on file with the Colorado State Office by January 26, 1981. Accordingly, BLM should not have rejected appellant's application since the agreement between appellant and CRI was on file with BLM well before the end of the filing period and because a statement of appellant's name and address and the fact that he was participating under the CRI service agreement was filed with BLM within the 15-day period provided by 43 CFR 3102.2-6(b).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed.

C. Randall Grant, Jr.  
Administrative Judge

We concur:

James L. Burski  
Administrative Judge

Gail M. Frazier  
Administrative Judge

